

### REMARKS/ARGUMENTS

Applicants thank Examiner Wendell for clarifying in a telephone conversation on February 26, 2008 that the objections to the Drawings are withdrawn. Applicants understand that new drawing sheets are not required.

Claims 1-32 were pending at the time of the Office Action.

Claim 1 is amended to clarify that at least one of the bottom chord sections (26) comprises material sections (23) of the web (29) folded out of the apertures (30). Support is found in the drawings and throughout the specification.

Claims 2 and 3 are amended to clarify the meaning of the claims.

Claims 9 and 12 are amended to address claim informalities regarding multiple ranges.

Claim 15 is amended to clarify that the top chord is configured to couple fastening elements to the profile rail.

The amendments to claims 3, 9, 12 and 15 render the rejections under 35 USC § 112 moot.

#### Rejections under 35 USC §§ 102 and 103

The rejections of claims 1-32 as anticipated by Chicago (WO 97/12101) and as obvious over Chicago in view of LaLonde (U.S. 5761868) are respectfully traversed.

The Office Action considers the subject matter of claim 1 to be anticipated by Chicago (WO 97/12101). In this connection the Action states on page 6, first paragraph, that the claimed limitations “with the bottom chord being formed by a bent-over portion of the web and the side of the bottom chord disposed remote from” and “at least one of the bottom chord sections is formed by material sections of the web folded out of the apertures” as well as all features of claim 2 reflect product by process limitations.

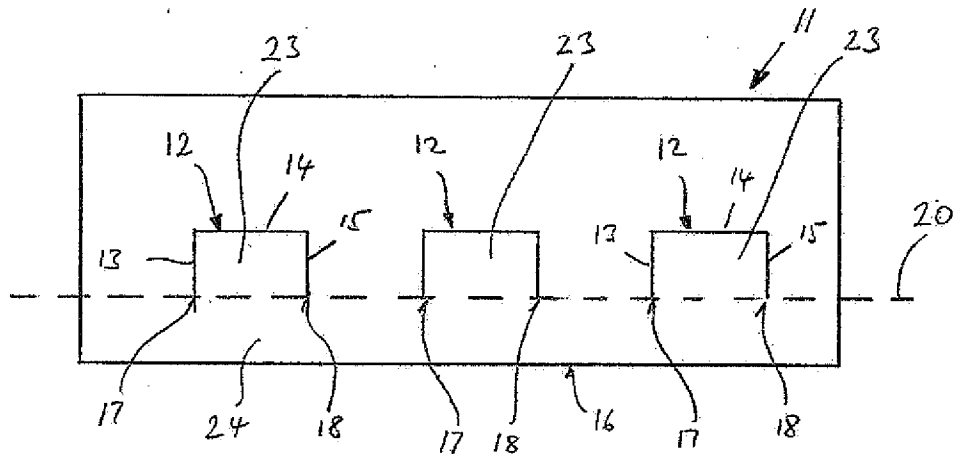
Applicants do not agree with the Examiner since even if the objected features may be considered to describe process steps, they additionally describe the structure of the product itself. For example, the feature that “at least one of the bottom chord sections is formed by material sections of the web folded out of the apertures” describes not only the method of production but also the structure of the resulting product since from the product itself it is clearly seen that the bottom chord sections 26 are material parts which have been folded out from the apertures 30.

In contrast, in Chicago none of the bottom chord sections are material sections which have been folded out of the apertures 7, as can be clearly seen from fig. 2 of Chicago.

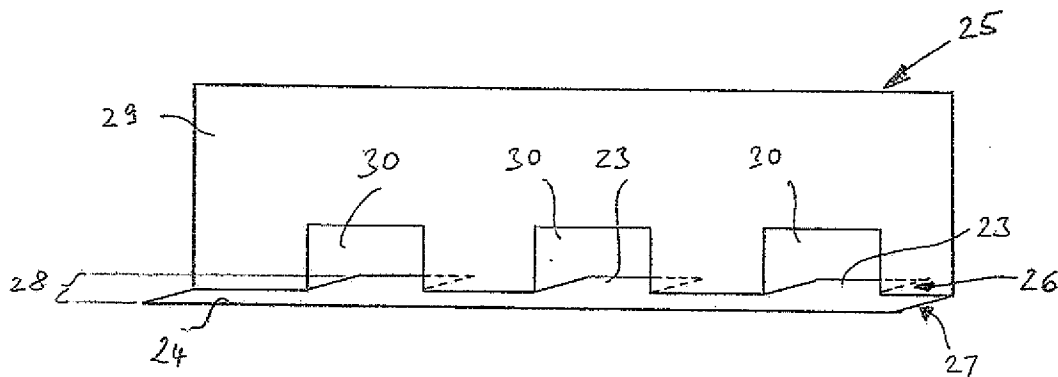
Since this difference results in a clear, distinguishable structure of the resulting product, the objected features cannot be considered to be merely process features, and should be used to distinguish the claims.

Nonetheless, without prejudice or acquiescence, current claims 1 and 2 recite the word "comprise" in relation to material sections (23) of the web (29) to clarify the structural nature of the features.

To clearly point out the differences between the invention and Chicago, the following figures are provided. In the first figure, a strip of sheet metal 11 is shown which forms the starting point for the production of a profile rail of the invention. In the sheet metal 11, a plurality of elongate incisions 12 made in U-shape are provided each of which consists of three straight-line part incisions 13, 14, 15 which stand perpendicular to one another. The part sections 14 extend parallel to one of the longitudinal edges 16 of the strip of sheet metal 11. The free ends 17, 18 of the incisions 12 each lie on a straight line 20 extending parallel to the edge 16 forming a bending line of the sheet metal 11.



To form the profile rail made in accordance with the invention, the strip of sheet metal 11 is folded over along the bending line 20 such that the material sections 23 of the strip of sheet metal 11 bordered by the incisions 12 are folded out of the drawing plane and the strip-shaped section 24 arranged between the bending line 20 and the longitudinal edge 16 is folded into the drawing plane such that the base body 25 of the profile rail shown in the next figure arises.



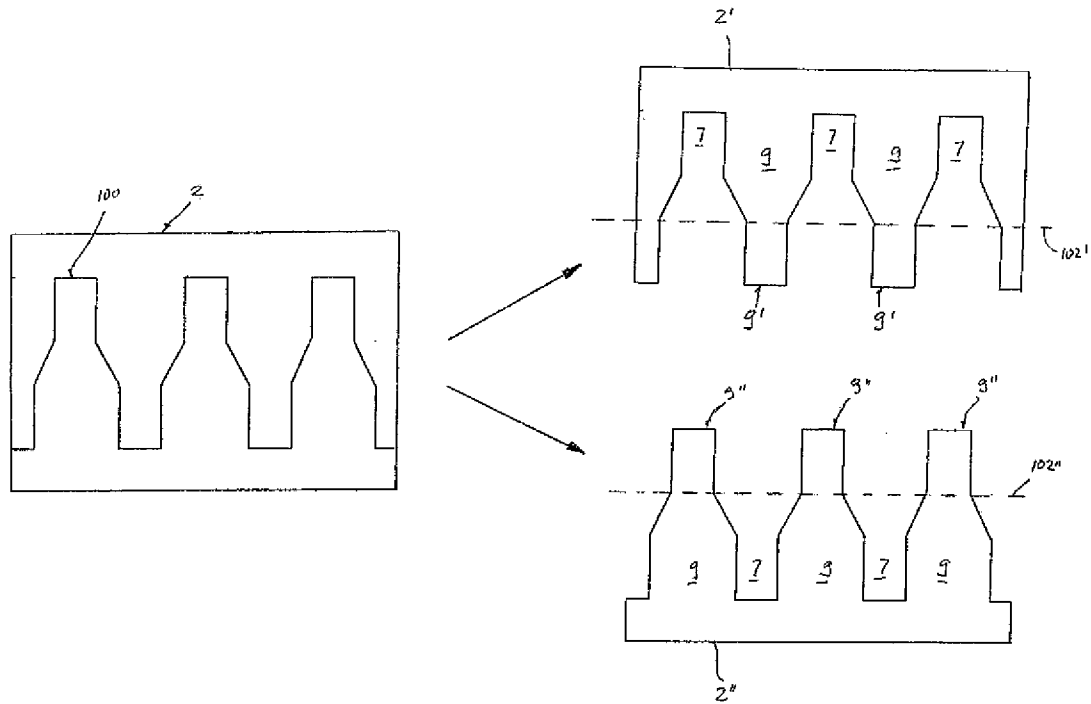
The strip-shaped section 24 and the material sections 23 form bottom chord sections 26, 27 of a bottom chord 28 after the folding procedure, whereas the remaining region of the strip of sheet metal 11, which is substantially perpendicular to the bottom chord 28, forms a web 29 of the base body 25. From the resulting base body 25 it is clearly seen that the bottom chord sections 26 are formed by the material sections 23 of the web 29 folded out of the apertures 30 which means that this feature also describes a structural feature of the resulting profile rail.

The production of the profile rail according to the invention is very simple since the incisions 12 can be made in a single step and the complete bottom chord 28 is made by a single bending step in which the material section 23 as well as the strip-shaped section 24 are folded simultaneously around the bending line 20 so that the complete bottom chord 28 is produced in one unitary bending step.

In addition, the resulting profile rail has a high stiffness since the bottom chord section 27 is built as unitary strip-shaped section.

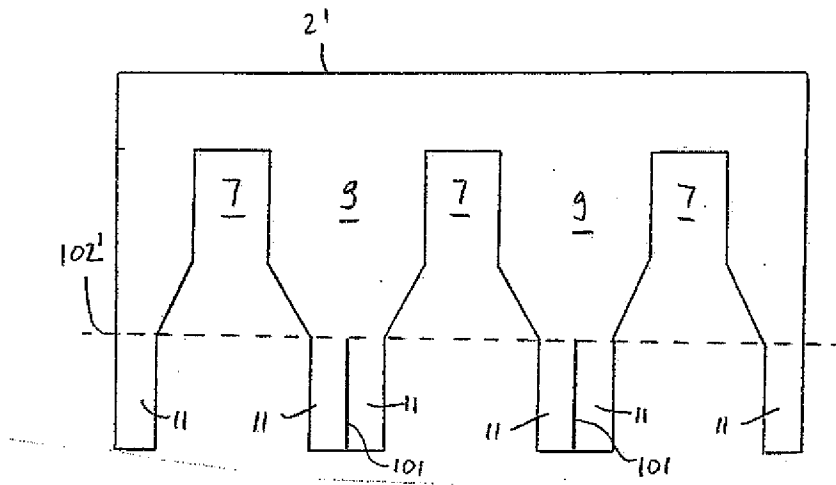
In contrast, the production of the profile rail according to Chicago is much more complicated and results in a profile rail with a different structure and with a much lower stiffness than the profile rail according to the invention.

According to the following figure, for producing a profile rail of Chicago, a metal sheet 2 is provided in a first step with a single incision 100 which is formed to divide the metal sheet into two symmetrical metal sheet halves 2' and 2'' as shown in the following figure.

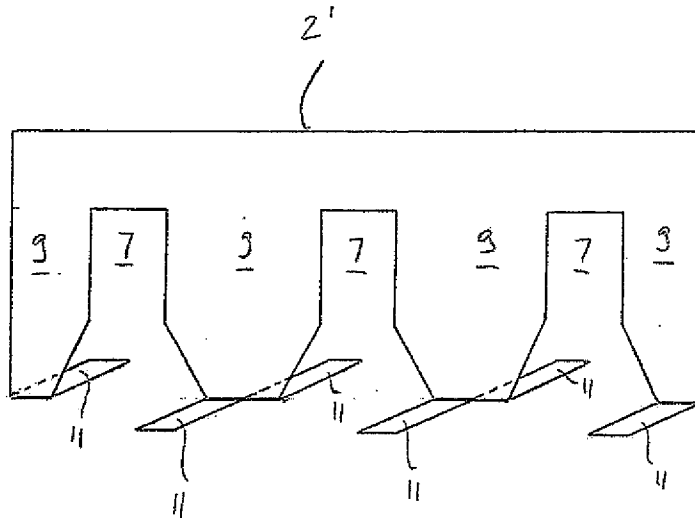


Each of the metal sheet halves 2', 2'' has a plurality of apertures 7 which are separated by intermediate metal sections 9 each comprising a free end 9', 9''.

In a second step in each free end 9', 9'' further incisions 101 are provided to divide each free end 9', 9'' into two lips 11 as shown in the following figure.



Finally, in a third step these lips 11 are bent over 90°, alternately to the left and the right with respect to a bending line 102' to form a bottom chord as shown in the next figure.



In contrast to the invention the lips 11 are not material sections which are folded out of the apertures 7 which can clearly be seen in the resulting profile rail. In addition, the production of the profile rail according to Chicago is much more complicated since two separate cutting steps are necessary and in addition the lips 11 must be alternately folded along the bending line 102', whereas in the profile rail of the invention the material section 23 and the strip-shaped section 24 are simultaneously folded over along the bending line 20 in a single folding step. Finally, the resulting bottom chord of Chicago is of much less stiffness than the bottom chord of the invention since none of the bottom chord sections has a unitary form as the strip-shaped bottom chord section 27 of the invention.

The Chicago reference does not teach or suggest that at least one of the bottom chord sections comprises material sections of the web folded out of the apertures. Moreover, the LaLonde et al. reference does not remedy this defect since the reference similarly fails to teach or suggest such bottom chord sections. Because all elements of the claims are not taught by the references, claims 1-25 are neither anticipated nor obvious.

Regarding independent method claim 26, the Action simply states that the claimed method step would have been obvious given the structure of Chicago. However, this cannot be the case since the production method for a profile rail of the current application is totally different from the production method to form a profile rail of Chicago, as described above.

Furthermore, claim 26 recites that an elongate strip of material is provided with a plurality of elongate incisions, with the two free ends 17, 18 of the incisions 12 each being arranged on a straight line extending substantially parallel to the longitudinal axis 19 of the strip of material 1 and forming a bending line. In contrast, Chicago completely fails to teach such specific incisions. First, as shown above and in fig. 2 of Chicago, the sheet metal 2 of Chicago is provided with one single incision 100 extending through the whole sheet metal 2. Second, the free ends of the incision 100 are clearly not forming the bending line 102', 102'' as can be seen from the above figures. The same is true for the further incisions 101. Therefore, Chicago cannot give any indication as to the subject matter of method claim 26.

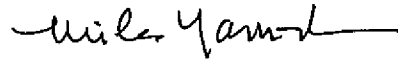
In all, the profile rail according to the present application is distinctly different from the profile rail of Chicago in structural features. Moreover, the method of claim 26 is also entirely different from the method disclosed in Chicago. As such, claims 26-32 are not obvious.

In view of the foregoing amendments and remarks, Applicants submit that the present application is in condition for allowance.

No fee is believed due. However, the Commissioner is hereby authorized during prosecution of this application and any related appeal, to charge any fees that may be required (except for patent issue fees required under 37 CFR §1.18) or to credit any overpayment of fees to Deposit Account No. 50-0337. If an extension of time is required in connection with this paper, please consider this a Petition therefor and charge any fees required to Deposit Account No. 50-0337.

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Respectfully submitted,



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